# MINUTES OF THE PRIVATE PROTECTIVE SERVICES BOARD MEETING DECEMBER 12, 2008 HOLIDAY INN BROWNSTONE 1707 HILLSBOROUGH STREET RALEIGH, NC 27605

#### **BOARD MEMBER PRESENT**

James Stevens
Bill Booth
Berkley Blanks
David Grimes
David Pendry
Brenda Bishop
Ron Burris
Mack Donaldson
Steve Johnson
Richard Allen

#### BOARD MEMBER ABSENT

Jimmy Ashe Richard Jenkins Sally Pleasant

#### STAFF PRESENT

Terry Wright – Director Charles McDarris – Attorney Joyce McClure – Board Secretary Anthony Bonapart – Deputy Director Tim Pressley – Training Officer Susan Harrison – Licensing Assistant

#### **GUEST PRESENT**

**Brooks McMath** Bill Dover Scott Siano David Arndt Monty Clark Clint Cooper **Sybil Richards** Justin Edwards J. S. Sisk Jeff Kiker Tom Rose Ruth Reynolds Nick Nicholson **David Shelton** Larry Flannery Ronald Leak Bob Forsythe

Chairman Allen called the December 12, 2008 Private Protective Services Board meeting to order at 9:00 a.m. Mr. Allen welcomed all guest and requested that they introduce themselves. Mr. Allen requested all phones and pagers be turned off, during the meeting.

Attorney Charles McDarris explained the State Ethics Law, which addresses the ethics of public officials. This law states specifically that if any Board Member has any conflict of interest, potential conflict of interest, or the appearance of a conflict, he or she should remove themselves from deliberation and vote on that matter and so state on the record.

#### **GOOD OF THE ORDER:**

Mr. Monty Clark, President of the NCAPI advised the Board it had been a pleasure to address the members for the past year as President, however, he would be stepping down as president when their elections were held on January 17, 2009. Mr. Clark advised he would continue to attend the meetings and would be very active in the Association and look forward to continuing to work with the Board.

Mr. Clark advised the Association would hold its next meeting on January 17, 2009 in High Point. Mr. Clark invited all of the Board Members to attend.

Mr. Jeff Kiker addressed the Board regarding the change in fees for new and renewals regarding the fingerprint checks. Mr. Kiker advised the \$38.00 fee will put a burden on the security industry and would like this, if at all possible, to be reconsidered.

Mr. Kiker also addressed the matter of the increase of ammunition to 300 rounds for firearms training.

Mr. Allen advised Mr. Kiker the Board would be discussing this matter under Old Business and thanked him for his comments.

#### APPROVAL OF THE OCTOBER 17, 2008 MEETING MINUTES:

MOTION BY MR. BURRIS TO APPROVE THE MINUTES AS PRESENTED. SECONDED BY MRS. BISHOP. MOTON CARRIED.

#### **SCREENING COMMITTEE REPORT:**

Ms. Bishop reported the Screening Committee met on Thursday December 11, 2008 from 8:00 a.m. until 12:00 noon, to review 58 applications. There were two additional items discussed by the Screening Committee. (See report). Committee members were, Mrs. Bishop, Mr. Blanks and Mr. Pendry. The two additional items discussed by the Committee involved certifications for Jerome Harriott and Ron Harris. Regarding these two matters, the following recommendations will not show on the master report.

Mr. Jerome Harriott – is directed to once again attend the unarmed guard training course, submit the appropriate fees; cannot train until he actually receives his unarmed guard trainer certification from PPS. Due to an internal error by PPS, accept the unarmed guard training attended by 72 guards, as they were trained in good faith.

Ron Harris – approval of Firearms Trainer Certification.

Mrs.

Bishop presented the following registration report for the period of October 14, 2008 through December 9, 2008. Total registrations 3,341; armed totals were 567 of which 206 were new, 353 were renewals, 3 were duplicates and 5 reissue/dual. Unarmed totals were 2,774 which include 1,359 new, 1,282 renewals, 127 transfer and 6 duplicates. Total denials 968 of which 486 for cause and 500 for correctable. There were 613 applications approved which were previously denied for a total, of 1,581 denials reviewed.

For the record, Mr. Blanks recused himself from the matter of Mr. Charles Lester Garner, Jr. Which are numbers 19 and 20 on the report and Beatrice Long Powers item number 45.

For the record, Mr. Booth recused himself from the matter of Michael Upchurch which is item number 54 on the report.

MOTION BY MR. GRIMES TO ACCEPT THE SCREENING COMMITTEE REPORT. SECOND BY MR. STEVENS. MOTION CARRIED.

#### **GRIEVANCE COMMITTEE REPORT:**

Mr. Grimes reported the committee met on Wednesday December 10, 2008 from 9:00 a.m. until 12:15 p.m. and from 1:00 p.m. until 4:00 p.m. to hear a total, of nineteen cases. The committee members were Mr. Grimes, Mr. Stevens, Mr. Booth and Mr. Donaldson. Mr. Grimes presented the attached report. (See attachment)

Mr. Grimes read all cases into the record.

For the record, Mr. Stevens recused himself regarding case number 2008-PPS-034 Sherif Muhammad Assai.

## MOTION BY MR. BLANKS TO ACCEPT THE GRIEVANCE COMMITTEE REPORT AS PRESENTED. SECONDED BY MR. PENDRY. MOTION CARRIED.

#### **FINAL AGENCY DECISIONS:**

Attorney McDarris removed himself as Attorney for the Board and presented the following cases. All parties were noticed of this meeting and we have Mr. Ronald Lewis Leak in attendance.

Case number 08 DOJ 2080, Ronald Lewis Leake vs PPS Board was heard by Administrative Law Judge Don Overby on September 23, 2008. This case was the denial of an unarmed guard registration permit.

Mr. McDarris present the facts of the case.

The proposal of the Administrative Law Judge is; The North Carolina Private Protective Services Board will make the final decision in this contested case. It is proposed that the Board *REVERSE* its initial decision to deny Petitioner's application for an unarmed guard registration permit and issue the registration permit for a probation period of at least three years. If Petitioner is convicted of any crime above a Class II misdemeanor the unarmed registration permit should be revoked.

Mr. Leak addressed the Board on his behalf.

MOTION BY MR. BOOTH TO REVERSE THE BOARD'S PREVIOUS DECISION AND GRANT THE UNARMED GUARD REGISTRATION TO MR. LEAK. SECOND BY MR. STEVENS. MOTION CARRIED.

Case number 08 DOJ 1594, Danny Dwight Jordan vs. PPS Board. Mr. Jordan was properly noticed for this meeting and is not in attendance. This case was before Administrative Law Judge Don Overby on September 28, 2007 for the denial of a Private Investigator Associate License.

Attorney McDarris presented the facts of this case.

The proposal of the Administrative Law Judge; The North Carolina Private Protective Services Board will make the final decision in this contested case. It is proposed that the Board *REVERSE* its initial decision to deny Petitioner's application for a private investigator associate license on the condition that Petitioner continue to comply with the repayment plan. If he discontinues the re-payment plan for any reason and fails to satisfy the outstanding debt, his private investigator associate license be revoked.

MOTION BY MR. BURRIS TO REVERSE THE PREVIOUS DENIAL OF THE PRIVATE INVESTIGATOR ASSOCIATE LICENSE FOR MR. JORDAN, WITH THE STIPULATION, HE PROVIDE THE BOARD WITH QUARTERLY REPORTS REGARDING HIS CREDIT. SECOND BY MR. JOHNSON. MOTION CARRIED.

Case number 08 DOJ 1867, Jamaal Ahkiem Gittens vs. PPS Board. Mr. Gittens was properly noticed of this meeting and is not present. This case was before Administrative Law Judge Randall May on August 26, 2008 for the denial of an armed guard registration.

Attorney McDarris presented the facts of the case.

The proposal of the Administrative Law Judge; The North Carolina Private Protective Services Board will make the final decision in this contested case. It is proposed that the Board *DISMISS* Petitioner's appeal of his denial for an Armed Guard Registration; as such appeal has been rendered moot.

Due to the mootness of Petitioner's appeal, the undersigned does not reach the question of whether Respondent Board has met its burden of showing that Petitioner lacks good moral character or temperate habits.

# MOTION BY MR. BURRIS TO ACCEPT THE RECOMMENDATION OF THE ADMINISTRATIVE LAW JUDGE. SECOND BY MRS. BISHOP. MOTION CARRIED.

#### TRAINING & EDUCATION COMMITTEE:

Mr. Stevens advised the Training & Education Committee met on Thursday December 11, 2008 from 2:00 p.m. until 3:00 p.m. The committee members were Mr. Stevens, Mr. Grimes, Mr. Booth and Mr. Allen.

Mr. Stevens reported Ms. Joyce Vaughn, with Wake Technical College, addressed the committee regarding a Pilot program for Unarmed Guard Trainers. The current Unarmed Guard Trainer course would be increased by one day, which will give the students an extra day to prepare for their oral presentations and testing. The Pilot program was accepted by the Committee for review and to report back to the Committee upon completion.

The following PPS Trainer courses are scheduled:

February 23-27, 2009, General Trainer Course (Pilot Course) - WTCC March 2009, PPS Firearms Trainer Course, NCJA

The following PPS Trainer course was completed: December 2008, General Trainer Course, WTCC

Mr. Stevens also reported the matter of the Education Fund was, addressed, with no action decided. There will be a workshop, scheduled, for January to discus the Education Fund.

# MOTION, BY MR. BOOTH TO ACCEPT THE TRAINING & EDUCATION COMMITTEE REPORT. SECONDED BY MRS. BISHOP. MOTION CARRIED.

#### **FINANCE COMMITTEE REPORT**

Nothing further to report.

#### **DIGITAL FORENSICS COMMITTEE:**

Nothing further to report.

#### **SCREENING COMMITTEE:**

Nothing further to report.

#### 74C RE-WRITE COMMITTEE:

Mr. Burris advised the committee met on Thursday December 11, 2008 from 3:30 p.m. until 3:40 p.m. Mr. Burris advised changes were not sent to Board members as he had planned, therefore, no finalized action would be taken today.

Mr. Booth will be working with Mr. Burris regarding the index for 74C.

Mr. Burris, Mr. Wright and Mr. McDarris will be scheduling a meeting with the Chief of Police and Sheriff's Association regarding the proposed 74C changes.

Mr. Burris advised the final draft should be ready by the February meeting.

10:10 a.m. Break 10:20 a.m. Reconvened

#### **OLD BUSINESS**:

Director Wright advised the matter of the Education Fund will be discussed at the Special Meeting to be held sometime in January.

There was a discussion held regarding the \$38.00 fee charged for fingerprint checks. Mr. McDarris stated that this is a result of House Bill 1638, which passed in 2002. This Bill affected twelve different Boards and Commissions. This fee is only a pass through fee, for which PPS does not receive any funds. Mr. McDarris advised a change was being considered to re-write 74C regarding the renewals.

There was a discussion regarding the Out of State On Line Criminal Record checks, which are still being considered. Currently the Board accepts on-line criminal records from North Carolina only.

Chairman Allen advised the Board is only doing what must be done according to law. The Board has no choice but to charge this fee regarding the processing of the fingerprint cards. If the industry would like to discuss this with their legislators regarding this matter they should.

Mr. Blanks reported the badges for the Private Investigators should be resolved by the February Board Meeting.

#### **NEW BUSINESS:**

Chairman Allen requested to change the Public Board Meeting from 9:00 a.m. to 8:30 a.m. since all members are present at that time.

## MOTION, BY MR. BLANKS TO CHANGE THE PUBLIC BOARD MEETING TO BEGIN AT 8:30 A.M.. SECOND BY MR. PENDRY. MOTION CARRIED.

Mr. Booth requested to know if it would be possible on a quarterly basis for the Grievance Committee results to be mailed to all licensees/companies? This may help with the industry to see what we hear and what the results are.

Director Wright advised the results of the screening and grievance committees are currently posted on the web approximately a week after the meetings.

Mr. Booth stated that he feels the industry should know exactly what the individual is charged with and exactly what the board did as a result of the charge.

Director Wright suggested we look at the way we present the reports and possibly do the newsletter on a quarterly basis.

Mr. McDarris reported some of the cases will be appealed and until the Final Agency Decision has been

made we may be treading on a thin line by providing the actual facts.

Mr. Allen requested this matter be discussed by, Mr. Wright, Mr. McDarris, and Mr. Booth, with a report to be presented to the February meeting.

#### **DIRECTOR'S REPORT:**

Mr. Wright presented his written report. The budget as of 11/1/08 for the combined boards we have \$300,346.46 and the PPS recovery fund balance is \$50,400.46, the Education Fund as of 11/1/2008 has a balance of \$40,567.00.

Mr. Blanks requested to know if the recovery fund would now stay at \$50,000 and any funds over that go into the Education Fund?

Mr. Wright advised the Board would have to request the fees be transferred each time for Financial Services to move the fees. This may also be an item to discuss at the January meeting.

MOTION, BYMR. BLANKS TO ACCEPT THE DIRECTOR'S REPORT, SECOND, BYMR. BURRIS. MOTION CARRIED.

#### **ATTORNEY'S REPORT:**

Attorney McDarris presented his report.

#### CONSENT AGREEMENTS AND CIVIL PENALTIES

Odessa Kimber of Kimber Guard and Patrol – A Consent Agreement of \$5,773.20, has been, issued. The Board allowed her to make installment payments. She fell behind on the payments and the matter was presented to the Grievance Committee on Wednesday.

Curt Escher – Consent Agreement for \$1,428.00, has been, paid.

Melvin Black – Consent Agreement for \$3,060.00, has been, paid.

John Calicutt – Consent Agreement for \$3,814.00, has been, paid.

Fred Myers – Consent Agreement for \$11,995.20, has been issued with installment payments. This will continue to be monitored for full payment.

#### OFFICE OF ADMINISTRATIVE HEARINGS:

See attached report.

#### **RULES:**

12 NCAC 7D.0901, – Rule to accept a current Criminal Justice Specialized Law Enforcement Firearms Instructor Certificate in lieu of the 40 hour course has been approved by the Rules Review Commission.

12 NCAC 7D.0906 – Rule to require a Firearms Trainer to maintain the B-27 targets has been approved by the Rules Review Commission.

12 NCAC 7D.0908 – Rule to require the firearms instructor to submit certification that a student has completed the classroom portion of the firearms training has been approved by the Rules Review Commission.

The following rules have been filed with the Office of Administrative Hearings Rules Review Commission: 12 NCAC 7D.0301, .0302, .0401, .0402, .0501, and .1201 – Proposed rules to remove the 10 year time limit for experience have been filed with the Rules Review Commission.

12 NCAC 7D .0202 – Rule to allow a \$100 transfer fee as opposed to a \$450 new license fee has been filed in the Office of Administrative Hearings. The comment period ends January 16, 2009.

12 NCAC 7D.0112 – Rule to summarily suspend an armed permit for the discharge of a firearm has been filed in the Office of Administrative Hearings. The comment period ends on January 16, 2009.

The following rules are before the Board for adoption to be sent to Rules Review Commission.

12 NCAC 7D .0203 - A technical amendment regarding the criminal record check.

12 NCAC 7D .0707 - The computer interactive training rule.

12 NCAC 7D .0806 – A technical correction to the armed security guard renewal rule that will require renewal applicants to certify that they are 21 years of age.

12 NCAC 7D .0807 (registrant renewal) & .0904 (trainer renewal) – Rule to allow the firearms recertification course to be valid for 180 days after the completion of the course.

MOTION BY MR. BOOTH TO ADOPT THE ABOVE RULES. SECOND BY MR. BLANKS, MOTION CARRIED.

#### **MISCELLANEOUS:**

12 NCAC 7D .0201, (.0202, .0701, .0801, .0902) – Draft rule to allow submission of criminal record check from third-party vendors. This is still in committee.

12 NCAC 7D .1300 – Draft rules to address Continuing Education is still in committee.

12 NCAC 7D .0807(e) – This is being worked on with Staff to finalize the "duty ammo" to "ballistic equivalent" amendments and they will be filed with OAH once completed.

Polygraph Rules – The Polygraph Association requested a number of changes to their rules. These are being worked on and will be filed with OAH once completed.

Employment Security Commissionrule – 12 NCAC 7D.0109 Records under item (b) to add the following: The Board may request the licensee provide within 10 days of the request, the businesses' Employment Security Commission account number along with the personal identification number (PIN) so that the Board may access the data electronically.

# MOTION BY MR. BURRIS TO CHANGE THE WORDING AS INDICATED ABOVE FOR 12 NCAC 7D .0109(b), SECOND BY MR. STEVENS, MOTION CARRIED.

Mr. McDarris addressed the matter of Highlands Country Club regarding a change in their security. The Board directed the Attorney to handle this administratively.

Mr. McDarris requested a closed session to discuss a pending legal matter in accordance with GS 143-318.11.

## MOTION BYMR. JOHNSON TO GO INTO CLOSED SESSION. SECOND BYMR. BOOTH. MOTION CARRIED.

The meeting was called back to order by Chairman Allen.

Mr. McDarris reported the Board was updated on a pending case in Superior Court and no action was taken.

Mr. Allen wished all a very safe and Merry Christmas.

# MOTION BY MR. STEVENS TO ADJOURN, SECOND BY MRS. BISHOP, MOTION CARRIED.

Adjourned 11:30 a.m.

Ten	y M. Wrig	ght, Dire	ector	
Su	san B. Ha	rrison, F	Reporter	